

## **REMARKS**

Claims 1-4, 6-10, 12-14, and 17, all the claims pending in the application, stand rejected on prior art grounds. Applicants respectfully traverse these rejections based on the following discussion. The following paragraphs have been numbered for ease of future reference.

### **I. The Prior Art Rejections**

[0001] Claims 1-4, 6-7, 9-10, 12-14, and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Preist, et al. (U.S. Publication No. 2002/0120588), hereinafter referred to as Preist. Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Preist, in view of Holden, et al. (U.S. Publication No. 2001/0032175), hereinafter referred to as Holden. Applicants respectfully traverse these rejections based on the following discussion.

[0002] Preist merely describes a computer system for allowing negotiation between a plurality of entities, the computer system comprising a computer network having a plurality of computer nodes; a computer node being arranged to define the negotiation between the entities with a set of negotiation activities; wherein the computer node is operable to implement a plurality of negotiation rule sets, each rule set constraining the negotiation activities to a specific negotiation type, thereby allowing a plurality of negotiation types to be selected by an entity.

[0003] Holden merely describes a method and system for providing an on-line auction, which may be part of a larger on-line community, for conducting and facilitating transactions in a commodity goods marketplace or industry. An embodiment of the present invention provides a World Wide Web ("Web") based auction site for conducting and facilitating transactions in an industry. The auction-based model allows a supplier to sell or buy goods closer to a real market price than the current method of offering the commodity via telephone, facsimile, or electronic mail (e-mail). The users receive automatic e-mails notifying them of the status of an auction. E-mails and on-line screens show time of day information in a user's local time zone. The end time of auction is automatically extended when there is activity close to the prescheduled end time. Both forward and reverse auctions are enabled.

[0004] However, Applicants respectfully submit that the Communication fails to respond to the issues presented in Applicants' prior Response. Applicants drew attention in para. 10 of

the prior Response to the fact that Preist para. 62 merely describes the gap-filling mechanisms or “Agreement Formation Rules” that are executed once an agreement has been reached. The Agreement Formation Rules described in Preist are not “[s]tandalone bilateral negotiations, which stand apart from the multi-party trading mechanism, to arrive a customized trading offers...” since no two parties are involved. Instead, Preist indicates that it is [t]he negotiation host (this time in the agreement make role) that looks at the current set of proposals to determine whether agreements can be made.” (Preist, para. 62, ll. 1-3) This clearly indicates that what is considered by the agreement maker is whether the parties have satisfied the constraints required for the finding of an agreement.

[0005] Moreover, Preist fails to address the fact that the claims require that the standalone bilateral negotiations being invoked to be “with the trading parties who submitted trading offers...” Preist simply fails to address this feature.

[0006] The Communication states: “[w]hen it is determined the negotiation host acts as an agreement maker. It creates agreement by taking offers from the selected buyers and sellers and applying rules (which create a form of negotiation) to create a deal.” (1/19/2010 Communication, p. 4, ll. 5-7, emphasis added)

[0007] However, Applicants respectfully submit that the agreement maker does not “create agreement.” The parties must already agree as to the major element else the agreement (or contract) is illusory. In contrast, Preist’s agreement maker fills in the gaps in an electronic memorialization of the agreement which is acceptable if the parties agree as to the key elements of the agreement. Thus, it is quite clear why Preist does not require the parties and clear why they are not involved.

[0008] Applicants further note that the headings for each section of the three examples described in Preist are informative. In the first example of a simple shop front negotiation, Preist indicates the negotiation rules are described in paras. 88-91. Once the negotiation has been concluded and an agreement is formed, the agreement formation rules are activated to fill in the gaps. Further examples of separate negotiation and agreement formation rule execution are described in the 2<sup>nd</sup> and 3<sup>rd</sup> examples.

[0009] Applicants therefore submit that the claimed invention, as provided in amended independent claims 1, 6 ,7, 12 and 17 contain features, which are patentably distinguishable from the prior art references of record.

[0010] Moreover, the Applicants note that all claims are properly supported in the specification and accompanying drawings and no new matter is being added. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections.

## **II. Formal Matters and Conclusion**

[0011] With respect to the rejections to the claims, the claims have been amended, above, to overcome these rejections. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections to the claims.

[0012] In view of the foregoing, Applicants submit that claims 1-4, 6-10, 12-14, and 17, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

[0013] Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary. Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

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